IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

Crl.MC.No. 3423 of 2006()

CC.1144/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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PETITIONER: 9TH ACCUSED

SHELLY JOSE, S/O.JAINAMMA,
MUKALUVILA VEEDU, KUMBALAM P.O.,
MULAVANA VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
THE SUB INSPECTOR OF POLICE, KUNDARA POLICE
STATION, KOLLAM DISTRICT, THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3423 OF 2006

Dated this the 28th day of November, 2006.

ORDER

The petitioner is the 9th accused. Charge sheet has been filed against the accused. He faces allegations inter alia under Section 27 of the Arms Act and Section 326 read with 149 I.P.C.

2. In this Crl.M.C, the petitioner makes a short request. He prays that the trial against him may be directed to be expedited. He has explained the circumstances under which he is compelled to make the request. He has secured employment in the police. He is undergoing training. He was able to get admitted for the training on the strength of Annexure-III order passed by another Bench of this Court in W.P(C) No.24198 of 2005 subject to conditions. The petitioner prays that the trial against him may be expedited and he may be permitted to clear himself of the allegations, failing which he is likely to lose his chance of employment even after completion of the training.

3. The learned Public Prosecutor does not seriously oppose the prayer. Report of the learned Magistrate was called for. The report of the learned Magistrate narrates the difficulties that are there for the expeditious completion of the trial.

4. Having considered the report of the learned Magistrate, I am not persuaded to agree that the petitioner's prayer does not deserve favourable consideration. Rule 16 of the Criminal Rules of Practice clearly shows that if the Magistrate is satisfied that the presence of the other accused cannot be secured “within a reasonable time having regard to the right of such of accused as have appeared to have the case against them enquired into without delay”, he shall proceed with the case against such of the accused as have appeared and dispose of the case according to law. The expression “reasonable time” and “the right of such accused who have appeared to have the case enquired into without delay” are eloquent. No rigid standards can be imported or insisted. A system cannot be heartless and mindless. The petitioner's request in the circumstances of the case does appear to me to be absolutely reasonable. The report of the learned Magistrate shows that all the accused have entered appearance before the learned Magistrate, if not personally, through their counsel. In these circumstances, I am satisfied that the learned Magistrate must be directed to dispose of the case against the petitioner as expeditiously as possible - at any rate, within a period of 3 months from the date on which a

copy of this order is produced before the learned Magistrate. The learned Magistrate shall resort to day to day posting. If presence of any of the co-accused cannot be secured, invoking the powers under Rule 16, the case against the petitioner and the available co-accused shall be split up and proceeded with as there is compelling necessity to complete the trial against the petitioner as expeditiously as possible.

5. This Crl.M.C is, in these circumstances, allowed. The above directions are issued to the trial court.

Hand over a copy of this order to the learned counsel for the petitioner for production before the learned Magistrate.

R.BASANT
JUDGE

rtr/